

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-00402-WJM-KLM

GREGORY J. CONWAY,

Plaintiff,

v.

CENTRAL INTELLIGENCE AGENCY,

Defendant.

ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on the Order to Show Cause [#16]. It had come to the Court's attention that Defendant has not been served with the Summons and Complaint in this action and, therefore, is not currently a proper party.

Plaintiff filed this civil action on February 14, 2013. *Compl.* [#1]. Pursuant to Fed. R. Civ. P. 4(m), the deadline for service on Defendant has now expired. On June 21, 2013, the Court issued an Order to Show Cause [#16], requiring Plaintiff to show cause why this Court should not recommend that the case against Defendant be dismissed pursuant to Fed. R. Civ. P. 4(m). The Court ordered Plaintiff to file proof of service on Defendant, or respond, in writing, to the Order to Show Cause on or before July 12, 2013. Plaintiff was warned that failure to serve Defendant or to respond and show good cause for Plaintiff's failure to properly serve this Defendant would result in this Court issuing a recommendation

to dismiss Plaintiff's action.

Plaintiff filed a Response [#17] to the Order to Show Cause on June 25, 2013. He asserted that he completed service on Defendant via United Parcel Service ("UPS") on February 22, 2013. *Response* [#17] at 2. Plaintiff provided the Court with copies of UPS documents demonstrating that he attempted to serve Defendant at: "Central Intelligence Agency, (970) 471-5381, Information & Privacy Coordinator, Washington DC 20505."¹ *Id.* [#17-1]. Plaintiff avers that nothing in Fed. R. Civ. P. 4(c) "precludes the use of commercial delivery services, such as UPS, as a means of providing service." *Id.* [#17] at 5.

Fed. R. Civ. P. 4(c) does not contain specific information regarding how to effect proper service in federal court. Because Plaintiff is attempting to serve the Central Intelligence Agency, Plaintiff must comply with the mandates of Fed. R. Civ. P. 4(i), which is titled "Serving the United States and Its Agencies, Corporations, Officers, or Employees." Further, Plaintiff must provide proof of service to the Court pursuant to the mandates of Fed. R. Civ. P. 4(l).

Pursuant to Fed. R. Civ. P. 4(m), the time limit for service on Defendant has expired. However, the Court will provide Plaintiff with one additional opportunity to comply with Fed. R. Civ. P. 4 and to accomplish service on Defendant. Accordingly,

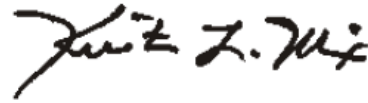
IT IS HEREBY **ORDERED** that, pursuant to Fed. R. Civ. P. 4, Plaintiff shall accomplish service on Defendant and provide proof of service to the Court **on or before**

¹ Plaintiff has previously successfully used this address in connection with his Freedom of Information Act (FOIA) requests. *Response* [#17-2].

August 12, 2013. Failure to do so will result in a recommendation that this case be dismissed.

Dated: July 1, 2013

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kristen L. Mix". The signature is stylized with a large, sweeping initial 'K' and a cursive 'L' and 'M'.

Kristen L. Mix
United States Magistrate Judge